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April 25, 2005

VIA FACSIMILE AND REGULAR MAIL

Christian G. Samito, Esquire
Donovan Hatem, LLP
Two Seaport Lane
Boston, MA 02210

RE: Trans-Spec Truck Service, Inc. v. Caterpillar Inc.
U.S.D.C., Civil Action No. 04-11836-RCL

Dear Mr. Samito:

I am writing to inform you of a conversation I had earlier today with Richard R. Bates, State Director for the Federal Motor Carrier Safety Administration (FMCSA). The purpose of my call was to discuss with Mr. Bates your client's position with respect to the pending onsite document inspection and our need to have Trans-Spec's repair documents moved offsite temporarily in order to have them professionally copied. We discussed the FMCS regulations that pertain to Trans-Spec, which may be found at 49 Code of Federal Regulations Part 390, *et seq.* Mr. Bates explained that the regulations do not require that Trans-Spec's documents be kept onsite at its principal place of business, but rather all records must be made available for inspection *at the motor carrier's principal place of business or other location specified by the agent or representative within 48 hours after a request is made.* See 49 C.F.R. Part 390.29. (emphasis added). Mr. Bates stated he sees no reason why Trans-Spec's documents cannot be shipped offsite temporarily for copying so long as they are available for inspection within 48 hours if a request for inspection is made by the FMCS. Accordingly, we will stipulate that in the event Trans-Spec receives a request for inspection from the FMCS, we will immediately cease copying and return any documents in our possession to Trans-Spec's offices no later than the close of business on the day following notification by Trans-Spec of the inspection by the FMCS.

Mr. Bates also indicated he would be glad to discuss this matter with you further, or (if you would prefer) you can simply fax him a letter confirming the points made in this letter. Mr. Bates' contact information is as follows: Federal Motor Carrier Safety Administration, Richard R. Bates, State Director, 55 Broadway, Bldg. 3, Room 1-35, Cambridge, MA 02142; phone (617) 494-2770; facsimile (617) 494-2783.

If it remains your view that Trans-Spec's records must be maintained onsite, please provide me with the statutory authority which you (and your client) contend supports your position and I will review it.



Letter to Mr. Samito
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I would like to have these records copied as soon as possible so please advise your client's position as soon as possible. Should you have any questions, please call me at (617) 241-3029.

Very truly yours,

A handwritten signature in cursive script, appearing to read "c. Howe". The signature is written in dark ink and is positioned above the printed name.

Christopher R. Howe

CRH;bko

cc: Richard P. Campbell, Esquire
John A.K. Grunert, Esquire

Federal Motor Carrier
Safety Administration


U.S. Department of
Transportation

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Regulations		Related Links
Appendix A to Part 379 – Schedule of Records and Periods of Retention		<ul style="list-style-type: none">RegulationsRegulations
Item and category of records	Retention period	
A. Corporate and General		
1. Incorporation and reorganization:		
(a) Charter or certificate of incorporation and amendments.	Note A.	
(b) Legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company.	Note A.	
2. Minutes of Directors, Executive Committees, Stockholders and other corporate meetings.	Note A.	
3. Titles, franchises and authorities:		
(a) Certificates of public convenience and necessity issued by regulating bodies.	Until expiration or cancellation.	
(b) Operating authorizations and exemptions to operate.	Until expiration or cancellation.	
(c) Copies of formal orders of regulatory bodies served upon the company.	Note A.	
(d) Deeds, charters, and other title papers.	Until disposition of property.	
(e) Patents and patent records.	Note A.	
4. Annual reports or statements to stockholders.	3 years.	
5. Contracts and agreements:		
(a) Service contracts, such as for operational management, accounting, financial or legal services, and agreements	Until expiration or termination plus 3 years.	

with agents.	
(b) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above.	Until expiration or termination plus 3 years.
(c) Contracts for the purchase or sale of material and supplies except as provided in (a) above.	Until expiration
(d) Shipping contracts for transportation or caretakers of freight.	Until expiration
(e) Contracts with employees and employee bargaining groups.	Until expiration
(f) Contracts, leases and agreements, not specifically provided for in this section.	Until expiration or termination plus 1 year.
6. Accountant's auditor's, and inspector's reports:	
(a) Certifications and reports of examinations and audits conducted by public accountants.	3 years
(b) Reports of examinations and audits conducted by internal auditors, time inspectors, and others.	3 years
7. Other.....	Note A.
B. Treasury	
1. Capital stock records:	
(a) Capital stock ledger.	Note A.
(b) Capital stock certificates, records of or stubs of.	Note A.
(c) Stock transfer register.	Note A.
2. Long-term debt records:	
(a) Bond indentures, underwritings, mortgages, and other long-term credit agreements.	Until redemption plus 3 years
(b) Registered bonds and debenture ledgers.	Until redemption plus 3 years
(c) Stubs or similar records of bonds or other long-term debt issued.	Note A
3. Authorizations from regulatory bodies for issuance of securities including applications, reports, and supporting papers.	Note A.
4. Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or	Until the securities are sold, redeemed or otherwise disposed of.

- their equivalent.
5. Other..... Note A.
- C. Financial and Accounting
1. Ledgers:
- (a) General and subsidiary ledgers with indexes. Until discontinuance of use plus 3 years.
- (b) Balance sheets and trial balance sheets of general and subsidiary ledgers. 3 years.
2. Journals:
- (a) General journals..... Until discontinuance of use plus 3 years.
- (b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries. 3 years.
3. Cash books:
- (a) General cash books... Until discontinuance of use plus 3 years.
- (b) Subsidiary cash books 3 years.
4. Vouchers:
- (a) Voucher registers, indexes, or equivalent. 3 years.
- (b) Paid and canceled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, if not provided for elsewhere. 3 years.
- (c) Paid drafts, paid checks, and receipts for cash paid out. 3 years.
5. Accounts receivable:
- (a) Record or register of accounts receivable, indexes thereto, and summaries of distribution. 3 years after settlement.
- (b) Bills issued for collection and supporting data. 3 years after settlement.
- (c) Authorization for writing off receivables. 1 year.
- (d) Reports and statements showing age and status of receivables. 1 year.
6. Records of accounting codes and instructions. 3 years after discontinuance.
7. Other..... Note A.
- D. Property and Equipment
- Note. All accounts, records, and memoranda necessary for making a complete analysis of the cost or value of property shall be retained for the periods shown. If any of the records elsewhere provided for in this schedule are of this character, they shall be retained for the periods shown below, regardless of any lesser retention period assigned.
1. Property records:
- (a) Records which maintain complete information on cost or other value of all real and personal property or 3 years after disposition of property.

- equipment.
- (b) Records of additions and betterments made to property and equipment. 3 years after disposition of property
- (c) Records pertaining to retirements and replacements of property and equipment. 3 years after disposition of property
- (d) Records pertaining to depreciation. 3 years after disposition of property.
- (e) Records of equipment number changes. 3 years after disposition of property
- (f) Records of motor and engine changes. 3 years after disposition of property
- (g) Records of equipment lightweighed and stenciled. Only current or latest records
- 2. Engineering records of property changes actually made. 3 years after disposition of property
- 3. Other..... Note A
 - E. Personnel and Payroll
 - 1. Personnel and payroll records. 1 year
 - F. Insurance and Claims
 - 1. Insurance records:
 - (a) Schedules of insurance against fire, storms, and other hazards and records of premium payments. Until expiration plus 1 year.
 - (b) Records of losses and recoveries from insurance companies and supporting papers. 1 year after settlement
 - (c) Insurance policies... Until expiration of coverage plus 1 year
 - 2. Claims records:
 - (a) Claim registers, card or book indexes, and other records which record personal injury, fire and other claims against the company, together with all supporting data. 1 year after settlement
 - (b) Claims registers, card or book indexes, and other records which record overcharges, damages, and other claims filed by the company against others, together with all supporting data. 1 year after settlement
 - (c) Records giving the details of authorities issued to agents, carriers, and others for participation in freight claims. 3 years
 - (d) Reports, statements and other data pertaining to personal injuries or damage to property when not necessary to support 3 years

- claims or vouchers.
- (e) Reports, statements, tracers, and other data pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers. 1 year.
- (f) Authorities for disposal of unclaimed, damaged, and refused freight. 3 years
- 3. Other..... Note A
 - G. Taxes
 - 1. Taxes..... Note A
 - H. Purchases and Stores
 - 1. Purchases and stores..... Note A
 - I. Shipping and Agency Documents
 - 1. Bills of lading and releases:
 - (a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading, freight bills from other carriers and other similar documents furnished the carrier for movement of freight. 1 year
 - (b) Shippers' order-to-notify bills of lading taken up and canceled. 1 year
 - 2. Freight waybills:
 - (a) Local waybills..... 1 year
 - (b) Interline waybills received from and made to other carriers. 1 year
 - (c) Company freight waybills. 1 year
 - (d) Express waybills..... 1 year
 - 3. Freight bills and settlements:
 - (a) Paid copy of freight bill retained to support receipt of freight charges:
 - (1) Bus express freight bills provided no claim has been filed. 1 year
 - (2) All other freight bills. 1 year
 - (b) Paid copy of freight bill retained to support payment of freight charges to other carriers:
 - (1) Bus express freight bills provided no claim has been filed. 1 year
 - (2) All other freight bills. 1 year
 - (c) Records of unsettled 1 year after disposition.

- freight bills and supporting papers.
- (d) Records and reports of correction notices. 1 year
- 4. Other freight records:
 - (a) Records of freight received, forwarded, and delivered. 1 year
 - (b) Notice to consignees of arrival of freight; tender of delivery. 1 year.
- 5. Agency records (to include conductors, pursers, stewards, and others):
 - (a) Cash books..... 1 year.
 - (b) Remittance records, bank deposit slips and supporting papers. 1 year.
 - (c) Balance sheets and supporting papers. 1 year.
 - (d) Statements of corrections in agents' accounts. 1 year.
 - (e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc.. 1 year.
- J. Transportation
- 1. Records pertaining to transportation of household goods:
 - (a) Estimate of charges.. 1 year.
 - (b) Order for service.... 1 year.
 - (c) Vehicle-load manifest 1 year.
 - (d) Descriptive inventory 1 year.
- 2. Records and reports pertaining to operation of marine and floating equipment:
 - (a) Ship log..... 3 years.
 - (b) Ship articles..... 3 years.
 - (c) Passenger and room list. 3 years.
 - (d) Floatmen's barge, lighter, and escrow captain's reports, demurrage records, towing reports and checks sheets. 2 years
- 3. Dispatchers' sheets, registers, and other records pertaining to movement of transportation equipment. 3 years
- 4. Import and export records including bonded freight and steamship engagements. 2 years
- 5. Records, reports, orders and tickets pertaining to weighting of freight. 3 years
- 6. Records of loading and unloading of transportation equipment. 2 years
- 7. Records pertaining to the diversion or reconsignment 2 years

of freight, including requests, tracers, and correspondence.

8. Other..... Note A

K. Supporting Data for Reports and Statistics

1. Supporting data for reports filed with the Federal Motor Carrier Safety Administration, the Surface Transportation Board, the Department of Transportation's Bureau of Transportation Statistics and regulatory bodies:

(a) Supporting data for annual financial, operating and statistical reports. 3 years.

(b) Supporting data for periodical reports of operating revenues, expenses, and income. 3 years

(c) Supporting data for reports detailing use of proceeds from issuance or sale of company securities. 3 years

(d) Supporting data for valuation inventory reports and records. 3 years after disposition of the property.

This includes related notes, maps and sketches, underlying engineering, land, and accounting reports, pricing schedules, summary or collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Federal Highway Administration, the Surface Transportation Board, the Department of Transportation's Bureau of Transportation Statistics or other regulatory body.

2. Supporting data for periodical reports of accidents, inspections, tests, hours of service, repairs, etc.. 3 years

3. Supporting data for periodical statistical of operating results or performance by tonnage, mileage, passengers carried, piggyback traffic, commodities, costs, analyses of increases and decreases, or otherwise. 3 years

M. Miscellaneous

- 1 Index of records.... Until revised as record structure changes.
2. Statement listing records For the remainder of the period as prematurely destroyed or prescribed for records destroyed.
lost.

Note A. Records referenced to this note shall be maintained as determined by the designated records supervisory official. Companies should be mindful of the record retention requirements of the Internal Revenue Service, Securities and Exchange Commission, State and local jurisdictions, and other regulatory agencies. Companies shall exercise reasonable care in choosing retention periods, and the choice of retention periods shall reflect past experiences, company needs, pending litigation, and regulatory requirements.

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